

REMARKS

The present application was filed on July 30, 2003 with claims 1-19, all of which remain pending. Claims 1 and 17-19 are the pending independent claims

Claims 1-3, 5, 6, 13 and 17-19 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,157,983 (hereinafter “Backstrom”).

Claims 4, 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Backstrom in view of U.S. Patent Publication No. 2004/0198421 (hereinafter “Coan”).

Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Backstrom in view of U.S. Patent No. 6,496,499 (hereinafter “Hamilton”).

Claim 16 is rejected under 35 U.S.C. §103(a) as being unpatentable over Backstrom in view of U.S. Patent No. 6,650,630 (hereinafter “Haartsen”).

Claims 8-12 are indicated as containing allowable subject matter.

Applicant has added new claim 20, which depends from claim 1 and includes limitations directed to configuring the device such that in a first mode of operation the master radio only transmits data and the one or more slave radios only receive data; and configuring the device such that in a second mode of operation the master radio only receives data and the one or more slave radios only transmit data. Support for this amendment may be found in the present specification at, for example, page 7, lines 16-20.

With regard to the §102 rejection, Applicant initially notes that a claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). See generally MPEP 2131.

In the present Office Action at page 3, second paragraph, the Examiner indicates a failure to accord patentable weight to certain limitations, which the Examiner characterizes as claim language that “suggests or makes operational but does not required [sic] steps to be performed or does not limit a claim to a particular structure,” because such language allegedly does not limit claim scope.

Applicant respectfully submits that this piecemeal examination is inconsistent with Federal Circuit precedent, which indicates that a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. See, e.g., *Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006 (Fed. Cir. 2004) (“[G]eneral descriptive term[s] frequently used in patent drafting to reflect a functional relationship between claimed components . . . are typically construed as having their full meaning.”) See generally MPEP 2173.05(g).

Notwithstanding the foregoing traversal, Applicant has amended claims 1, 8, 14 and 17-19 without prejudice solely in order to expedite allowance by conforming to the subjective preferences of the Examiner.

Independent claim 1 includes limitations directed to designating one of a plurality of radios within a device as a master radio and one or more of the remaining radios of the device as slave radios; and configuring the device such that in a particular mode of operation the master radio only transmits data and the one or more slave radios only receive data or the master radio only receives data and the one or more slave radios only transmit data.

In arguing that Backstrom meets this limitation in the Office Action at page 3, first paragraph, the Examiner relies primarily on Backstrom at column 2, lines 25-67. The Examiner characterizes the relied-upon portion of Backstrom as disclosing a base station including four transceivers, one of which is a verification transceiver, and each of which operates on a different frequency such that each transceiver is able to transmit and receive independently of the others.

Even if the Examiner’s characterization of the relied-upon portion of Backstrom were in fact accurate, such disclosure would fail to reach the limitation at issue. The limitation requires that in a particular mode of operation the master radio only transmits data and the one or more slave radios only receive data or the master radio only receives data and the one or more slave radios only transmit data. By contrast, nowhere does Backstrom teach (or even suggest) that any of the transceivers engage in other than bidirectional communication, in which the transceiver both transmits and receives data, much less the specific arrangement recited in claim 1.

Backstrom indicates that the verification transceiver both transmits and receives data when performing verifications. See, e.g., Backstrom at column 3, lines 53-55 (describing “transmissions on the frequency of a target mobile device, for which the base station is now required to perform a verification”) and column 3, line 65, to column 4, line 8 (After “a verification is ordered, . . . the device VER/TRX4 retunes its receiver to the frequency of the target mobile device. . . to ensure that it receives a signal from the target mobile.”)

Although Backstrom does not expressly state that the remaining transceivers both transmit and receive data, Backstrom at column 2, lines 30-38, states that the transceivers at issue are within a pico base station for use in an indoor cellular system, and that these transceivers are used for traffic channels and for the digital control channel. Applicant respectfully submits that it is implicit, if not inherent, that cellular telephony traffic is bidirectional in nature, such that a user of a cellular telephone is able to both speak and listen. This also applies to the verification transceiver when it is “in normal transmission, that is when not performing verifications, [and] operating on its own operating frequency, handling traffic from mobiles,” as described in Backstrom at column 3, lines 62-64. See also Backstrom at column 3, lines 28-32 (The verification transceiver “has to act in a very similar way to the other transceivers, for most of the time.”)

Applicant respectfully submits that Backstrom fails to meet the limitations of claim 1, and thus fails to anticipate claim 1.

Independent claims 17-19 contain limitations similar to those discussed above with respect to claim 1, and are thus believed allowable for at least the reasons identified above with respect to claim 1.

Dependent claims 2-7, 13-16 and 20 are believed allowable for at least the reasons identified above with regard to independent claim 1, from which each depends. Moreover, these claims define separately patentable subject matter.

For example, dependent claims 4, 7 and 14-16 are each rejected as unpatentable over Backstrom and an additional reference. Applicant respectfully submits that none of these additional references supplement the aforementioned deficiency of Backstrom to reach the limitations of

claim 1, from which each of these claims depends. Moreover, as noted above, Backstrom teaches away by disclosing an arrangement which is incompatible with the claimed arrangement.

Dependent claim 20 recites a limitation wherein in a first mode of operation the master radio only transmits data and the one or more slave radios only receive data; and wherein in a second mode of operation the master radio only receives data and the one or more slave radios only transmit data. As noted above, Backstrom, even when combined with the other cited references, fails to teach or suggest either of the recited modes of operation, much less a device operable in both modes.

In view of the above, Applicant believes that claims 1-20 are in condition for allowance and requests withdrawal of the present rejections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph B. Ryan". The signature is fluid and cursive, with a large initial "J" and a stylized "R".

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